

34741

IN THE CIRCUIT COURT OF FAYETTE COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

VS:

**INDICTMENT NO. 08-F-138
JOHN W. HATCHER, JR., JUDGE**

**LINDA S. SIGLER
aka LINDA S. MULLINS
DOB: 10-06-58**

CONVICTION ORDER

This cause came on to be heard this 5th day of August, 2008, the State of West Virginia appearing by Assistant Prosecuting Attorney Brian D. Parsons, and the defendant, Linda S. Sigler, aka Linda S. Mullins, appearing in person and by her counsel, Jack Thompson.

Whereupon, the State of West Virginia announced unto the Court that an agreement had been reached in this matter, subject to the approval of the Court, whereby the defendant would enter a plea of guilty to the felony offense of third offense driving under the influence of alcohol, as charged in Indictment No. 08-F-138. The State agrees to stand silent at the sentencing phase in this matter. The State further informed the Court that this plea agreement is made pursuant to West Virginia Rule of Criminal Procedure 11(a)(2) with the defendant reserving the right to appeal the Court's adverse determination regarding her pretrial Motion to Suppress Evidence Obtained Pursuant to an Illegal Road Block.

Thereupon, the plea agreement letter dated July 21, 2008, prepared by the State and executed by the defendant and her counsel, was presented unto the Court.

The defendant was, thereupon, sworn to answer questions before this Court.

Whereupon, the Court inquired of the defendant if the plea agreement letter presented unto the Court on this date was the entire agreement between the State and the defendant and if the signature on each page of the three-page letter was, indeed, her signature, if she fully understood the nature of the plea agreement, the statutory and constitutional rights that would be waived upon entry of a plea of guilty to the felony offense of third offense driving under the influence of alcohol, and the nature and consequences to the defendant of a plea of guilty as contemplated by said plea agreement. The Court further advised the defendant that failure to pay any Court-ordered fines, costs, or restitution could result in the loss of her West Virginia driver's license.

The Court, having been advised by the defendant that the signature on each page of the plea agreement letter submitted is her signature, that she fully understood the nature and consequences of the plea agreement, the statutory and constitutional rights that would be waived upon entry of a plea of guilty to the felony offense of third offense driving under the influence of alcohol, and the defendant having waived the reading of the indictment herein, called upon the defendant for her plea, to which the defendant entered an oral plea of guilty to the felony offense of third offense driving under the influence of alcohol, as charged in Indictment No. 08-F-138. Further, counsel for the defendant presented a written plea of guilty, which was executed by the parties and submitted unto the Court. The written plea of guilty is hereby **ORDERED** filed.

Whereupon, the Court made the following findings of fact:

1. The defendant has received a copy of the indictment herein and fully understands the nature and meaning of the felony offense to which she has pled guilty.
2. The defendant has been represented by an attorney who is competent in criminal matters and has advised the defendant of her constitutional rights, and the defendant is fully satisfied with said attorney.

3. The defendant fully understands and waives her right to a public trial by jury and her appeal rights with regard to any conviction received at trial.
4. The defendant understands that sentencing is in the sole discretion of the Court and no part of this plea is binding upon the Court.
5. The defendant fully understands the penalties for the felony offense of third offense driving under the influence of alcohol and that West Virginia Code § 17C-5-2 provides that upon such conviction, she shall be imprisoned in a state correctional facility for not less than one (1) year nor more than three (3) years, and the court may, in its discretion, imposed a fine of not less than three thousand dollars (\$3,000.00) nor more than five thousand dollars (\$5,000.00).
6. The defendant understands that probation is not an available sentencing option in this matter.
7. The defendant understands that failure to pay any Court-ordered fines, costs, or restitution imposed in this matter within the time allotted by the Court may result in the loss of her West Virginia driver's license.
8. The defendant understands the effect of her plea of guilty to a felony offense with regard to recidivism, possession of firearms, and her right to vote.
9. The defendant intelligently, knowledgeably, freely, and voluntarily waived her rights, and her plea is voluntary.
10. The defendant fully understands and knows the nature and consequences of her plea.
11. Based upon the statements of the defendant, a factual basis does exist for the defendant's plea of guilty to the felony offense of third offense driving under the influence of alcohol.

12. The crime to which the defendant has pled guilty is provable, and the defendant has no defense in fact or law.
13. The defendant understands that under this conditional plea he has an absolute right to appeal the Court's adverse ruling as to her pretrial Motion to Suppress Evidence Obtained Pursuant to an Illegal Road Block. The defendant further understands that success upon that appeal would allow her to withdraw her guilty plea and that if her appeal should fail, the conviction will stand.
14. Pursuant to the Rules of Criminal Procedure, the defendant understands that there are a variety of ways that an indictment for third offense driving under the influence may be tried.
15. The plea agreement herein is consistent with the public interest in the fair administration of justice.

In consideration of all of which, the Court accepts the defendant's oral and written plea of guilty to the felony offense of third offense driving under the influence of alcohol, as charged in Indictment No. 08-F-138. Accordingly, it is hereby the **ORDER** and **JUDGMENT** of this Court that the defendant is adjudged and found to be guilty of such offense.

The defendant's application for probation is referred to the Probation Department of this Court for investigation and report and the defendant shall immediately report the Probation Department of this Court immediately following this proceeding. It is further the **ORDER** and **JUDGMENT** of the Court that sentencing in this matter is deferred until the ruling of the defendant's appeal.

The defendant's bond previously posted in this matter is hereby continued in full force and effect.

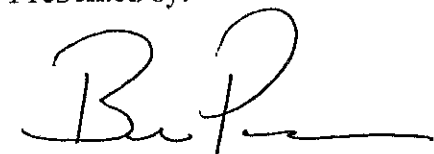
The Clerk of this Court is directed to forward attested copies of this Order to Brian D. Parsons, Assistant Prosecuting Attorney; Jack Thompson, counsel for the defendant; and the Fayette County Probation Department.

ENTERED this 15th day of August, 2008.

JOHN W. HATCHER, JR.
JUDGE

JOHN W. HATCHER, JR., JUDGE

Presented by:



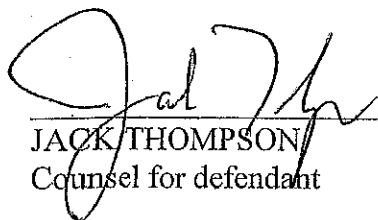
BRIAN D. PARSONS
Assistant Prosecuting Attorney

A TRUE COPY of an order entered

August 15, 2008

Teste: Daniel E Wright
Circuit Clerk Fayette County, WV

Inspected by:



JACK THOMPSON
Counsel for defendant